

Local Rule 16-3 - Continuances in Civil Cases

(a) Court's Discretion. The court may continue proceedings in a civil case on its own or on the motion of one or more parties.

(b) Consultation with Clients. Attorneys must consult with their clients before asking the court to continue a trial.

(c) Continuance for Unavailable Evidence. A party seeking to continue a trial because evidence is unavailable must include with the motion an affidavit showing:

- (1)** how the evidence is material;
- (2)** that the party has used due diligence to obtain the evidence;
- (3)** where the party believes the evidence is; and
- (4)** if the evidence is the testimony of an absent witness,
 - (A)** the name and residence of the witness, if known;
 - (B)** the likelihood of procuring the testimony within a reasonable time;
 - (C)** that neither the party nor anyone at the party's request or with the party's knowledge procured the witness's absence;
 - (D)** the facts the party believes the witness will truthfully testify to; and
 - (E)** that the party cannot prove the facts by any other witness whose testimony can be readily procured.

(d) Stipulation to Absent Evidence. The court may not continue a trial because evidence is unavailable if all parties stipulate to the content of the unavailable evidence. Despite the stipulation, the parties may contest the stipulated evidence as if it had been available at trial.

(e) Award of Costs Due to Continuance. The court may order a party seeking a continuance to reimburse other parties for their actual expenses caused by the delay.